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ABSTRACT

A discussion of the history and status of academic freedom in the context of Canadian universities finds that over time, academic freedom has been expanded to include a broad range of behavior and a wide range of freedom of speech. Tenure has come to mean the right of employment until death, resignation, or retirement, unless cause for dismissal can be established in a court of academic peers. While unionization and collective bargaining are not necessarily antithetical to academic freedom, full-blown unionization, collective bargaining, and the right to strike do stand in potential conflict with the principles of academic self-government upon which academic freedom rests. The concept of academic freedom needs to be re-examined because the balance between rights and responsibilities inherent in the idea is under stress, and academic freedom must be balanced with the commitment of faculty members to high standards of scholarship and productivity in teaching and research. Academic freedom must also be reconciled with demands for enhanced employment equity through affirmative action. Challenges associated with political correctness have made review of the concept even more important. (Author/MSE)

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The literature on academic freedom is voluminous. Some of it is deeply philosophical; much of it is polemical. Then there are the many accounts of individual cases of alleged or actual abuses of academic freedom, some of them played out in civil courts, many of them reconstructed from memories and documents. It is not possible to do justice to this enormous repository of evidence and opinion in a paper as circumscribed as this, and I apologize in advance to anyone who finds my sweeping account and generalized discussion in conflict with a particular instance or application with which they are personally familiar.

The idea of academic freedom is an ancient one, but its contemporary meaning and institutional manifestations in Canada are products of a single century. This paper will attempt to account for the rise of interest in academic freedom in Canadian universities around the turn of the century, the gradual transformation in the meaning attached to it and the gradual extension of the boundaries of its application, and, finally, the problems which its current embodiment in institutional practices and obligations present for the effective management of universities.

Highlights

- Over time, academic freedom has expanded to include a broad range of behavior and a wide ranging freedom of speech.
- Tenure, for its part, has come to mean the right of employment until death, resignation or retirement, unless cause for dismissal can be established in a court of academic peers.
- While unionization and collective bargaining are not necessarily antithetical to academic freedom, full-blown unionization, collective bargaining and the right to strike do stand in potential conflict with the principles of academic self-government upon which academic freedom rests.
- The concept of academic freedom needs to be re-examined, primarily because the balance between rights and responsibilities inherent in the idea is under stress.
- Universities need to secure reasonable assurances that academic freedom is balanced by the reciprocal commitment of faculty members to appropriately high standards of scholarship and productivity in teaching and research. How the balance between rights and responsibilities can be re-established through collective bargaining and expressed through collective agreements warrants urgent attention.
- Another reason for re-considering academic freedom is the need to reconcile it with demands for enhanced employment equity through affirmative action. At issue here is competition between two ideas: the commitment to the unremitting search for truth through scholarship, and a social responsibility to ensure that faculty members of publicly-funded universities are broadly representative of the society they serve.
- The challenges to academic freedom associated with political correctness have made a review of the concept even more important. Political correctness strikes at the very roots of academic freedom, because its targets extend to what is studied and taught.

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It might be useful to recall that the term "PC" actually originated on the left, as an expression inviting a certain self-mockery and at least implicit self-criticism. Employed as originally intended, i.e. self-reflexively, it is in fact a useful term, one that we might all invoke to protect ourselves from the dangers of complacency and orthodoxy to which we are, merely by virtue of our disciplinary identifications, inevitably subject. But when invoked as a slur or attack on the disciplines of others, it has the opposite effect — of polarizing debate, foreclosing dialogue, and blinding us to ideological abuses of reason on our own part, in our own domains.

*– Evelyn Fox Keller, "Science and its critics", **Academe**, September-October 1995.*

The emergence of an idea

The idea of academic freedom had little currency in Canadian universities and colleges until very late in the nineteenth century and early in the twentieth century. The causes of this are many, but not particularly complex. Prior to the turn of the century, our colleges were mostly small and overwhelmingly denominational. They were dedicated to the study and transmission of a certain segment of learning, to the professional training of the clergy and a few other learned professions, and the general education of a small portion of the population. They were modest institutions by any measure of size or social significance.

This is not to say that universities and colleges were never the object of political controversy. Indeed they were, but the controversies had mostly to do with denominational exclusiveness and state-church relations. Academic freedom was not an issue.

What changed this more than anything else was the arrival of science, and the transformation of the university from a place for the study of established knowledge to one in which, through rigorous analysis and experimentation, new knowledge might be discovered. The nineteenth-century German university, founded on the marriage of teaching and research, and embodying the highest standards of scientific inquiry, brought forth the idea of academic freedom in its purest contemporary form. Academic freedom was not an extraneous notion brought into the university for the material or professional benefit of professors (or, in the German case, students also). Academic freedom was the *sine qua non* of independent inquiry, a necessary condition for scientific discovery and the pursuit of truth.

This is not to say that universities and colleges were never the object of political controversy. Indeed they were, but the controversies had mostly to do with denominational exclusiveness and state-church relations.

What transformed universities in Canada was not so much the attractiveness of science *per se*, but the growing perception in business and governmental quarters that science was behind the apparent success of German industrial progress and that science held the key to similar progress elsewhere. The establishment of research universities in the United States, starting with Johns Hopkins, virtually guaranteed that it would be but a matter of time until this idea reached Canada.

A few universities in Canada had established reputations in scientific work by the turn of the century. McGill, and to a lesser extent Dalhousie, were the beneficiaries of private philanthropy, some of it magnificent. Particular note needs to be made of the University of Toronto, which was emerging as a research-intensive university, but struggled under the yoke of direct government supervision. A new bicameral governing structure, recommended by the Flavelle Royal Commission and put in place in 1906, incorporated the principle of institutional autonomy and set the university on the road to becoming Canada's premier research university. Meanwhile, the Flavelle report

The current system of academic tenure does little to protect the academic freedom of those who have it, beyond the protection already available in the First Amendment to the Constitution and in our shared ethos as a community of scholars. And it does much to suppress that freedom for those who don't have it.

*– David Helfand, "Why I said no to tenure", **University Affairs**, May 1996.*

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became the standard reference work on university governance, and the guide for organizing virtually all of the new provincial universities subsequently established in the western provinces. Some other universities, such as Queen's and Western Ontario, had aspirations with respect to research and scientific work which unfortunately exceeded their resources.

The project which truly secured the preeminence of science and scientific research in Canadian universities was the establishment of the National Research Council in 1916. Its mission was the encouragement of industrial research, but it confronted a situation in which industry had little capacity for research, and universities were producing few researchers. It moved immediately to address the latter problem by investing in professors and students through research grants and scholarships.

With that, the research mission of the university was established and the debate over academic freedom truly launched in Canada. The debate was not so much over the idea itself, but over the limits of its application and over the means by which it was to be secured. In the beginning, academic freedom was not perceived so much as a question of rights, but rather of progressive leadership, based on the appreciation by presidents and boards that the idea embodied a condition necessary for scientific advancement. And it quickly extended itself well beyond pure science, into the whole reach of higher learning, even to the study of the Bible itself.

From this beginning, academic freedom was perceived as conditional and limited. Precisely because it was thought necessary for the promotion of scientific inquiry and discovery, it demanded a single-minded dedication to the search for truth on the part of those who claimed or enjoyed its protection. It is no accident that academic freedom was first secured in the leading research universities of the day, and respect for it became something of a measure of their relative standing and progressiveness. It was not a principle forced on universities, or wrestled from reluctant presidents and boards by faculty activists; it was freely embraced by progressive presidents as the condition necessary to secure a place among the ranking institutions of the day. But in its early manifestation, the conception of academic freedom was decidedly limited. For one thing, it was essentially confined to the institution itself. But the privilege of academic freedom was not the mark of mere membership in the academy - not yet at least - but of those whose scholarly work was of a quality and substance that was deemed to warrant protection. Even they, however, were expected to behave with modesty and circumspection in addressing issues of public interest and to refrain from comment or behavior which might attract unfavourable comment on the university.

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Robert Falconer, president of the University of Toronto, defined the contemporary meaning of academic freedom

Many persons in academic life do not seem to realize that this cultural shift has occurred and still seem to imagine that a major threat to academic freedom is coming from a religious establishment that no longer exists. In fact, the principal threat to academic freedom these days comes not from ministers, or trustees, or university administrators, but from the dominant ideologies among students and faculty.

– Phillip E. Johnson, "Academic freedom and the religious professor", ***Academe****, September-October 1995.*

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in his famous public address of 1922. The university's highest obligation was to search for and impart truth. But it could fulfil that function only when it was free to investigate the full range of human thought. Indeed, he continued, "...we can measure the rank and stability of a university by the security given to a professor to pursue and expound his investigations without being compelled to justify himself to those who differ from him." But this freedom carried with it a corresponding responsibility, and Falconer was adamant that the academic freedom of professors was associated with their scholarly work within the university. They were to take no active part in party politics, nor in "burning political questions." (James G. Greenlee, *Sir Robert Falconer: A Biography.* Toronto: University of Toronto Press, 1988, pp 280-83.)

The genie was not to stay so comfortably within its institutional bottle, however, and the next thirty years were punctuated by incidents in which political action and statements by professors ran afoul of what presidents, boards and governments considered appropriate, especially in public institutions. Frank Underhill, professor of history in the University of Toronto, was seldom far removed from these controversies and was the central character in several of the most notorious, particularly when in 1939 he managed to raise the ire of the premier, board, president, and a good part of the Toronto "establishment" with his views on Canada's foreign policy. Underhill was so controversial precisely because he pushed the limits of academic freedom on two fronts simultaneously: publicly expressing controversial views on sensitive matters of public policy, and resisting the remonstrances of his president, dean, department head and senior colleagues to restrain his behavior. In short, Underhill challenged the quid pro quo inherent in the contemporary understanding of academic freedom: that freedom implied a responsibility to refrain from action that would reflect badly on the institution. In the end, of course, Underhill prevailed, and in so doing helped to move the limits of academic freedom to include "troublemakers", at least if the quality of their teaching and scholarship warranted it.

The university's highest obligation was to search for and impart truth. But it could fulfil that function only when it was free to investigate the full range of human thought.

The event that came to mark Canada's loss of innocence with respect to academic freedom was the sordid little battle known as the Crowe affair at United College (now the University of Winnipeg) in 1958-59. It is not so much the events themselves that make this a milestone in the evolution of academic freedom in Canada, but their consequences. Crowe's dismissal, essentially on grounds of disloyalty and behavior unbecoming a member of a religiously-affiliated institution, marked the emergence of the Canadian Association of University Teachers as a major force in university governance. In quite rapid succession, Canadian universities would embrace democratic management, tenure, and collective bargaining. In the process, the principle of academic freedom would be transformed dramatically.

Aside from a few fragmentary starts, which have been responses to particular abuses and grievances, the academic profession has done very little to promulgate a set of guiding principles which should govern its custodianship of knowledge in teaching and research, its role in the internal conduct of universities and its participation in the public sphere.

– Edward Shils, ***The Academic Ethic****. Chicago: University of Chicago Press, 1984.*

Parent, Duff-Berdahl and democratic management

The Crowe Affair occurred on the very eve of a massive expansion of higher education in Canada. In preparation for this expansion, and to create a policy framework within which it might be managed in Quebec, the Parent Royal Commission was appointed in 1961, submitting the first volume of its report in 1963. Parent's blueprint for expansion was at once thoughtful, far-reaching, and radical. It brought higher education within the domain of government policy and regulation, emphasized access and integration of institutions into a provincial system, anticipated the demise of church control, and throughout the report endorsed the principle of democracy in university governance.

Close on the heels of Parent came the Duff-Berdahl report of 1966, the product of cooperation between the AUCC and the CAUT. If Parent and his colleagues had laid out the principles that would guide the expansion and modernization of higher education in Quebec, especially on the francophone side, Duff-Berdahl opened the flood-gates of democratic management, sweeping away most of the vestiges of the established university authority structure in its wake. Power shifted dramatically from administrative officers and governing boards to senates, departments, and faculty committees. Rules and regulations were negotiated and formalized in senate-board agreements. And at the heart of this transformation was the securing of academic freedom through the institution of tenure.

Tenure, in short, was more a matter of expectation than of right, and it involved responsibilities as to behavior as well as rights as to employment.

Tenure

Academic appointments in most Canadian universities were usually considered either temporary or permanent. A permanent position, which was often confirmed as such after a year or more of probationary service, was simply one which, in the normal course of events, was expected to continue. It was usually marked by an appointment "with permanent tenure", but such an appointment could be terminated by the governing board on the advice of the president if they determined that the conditions warranting continued employment with academic freedom no longer applied. In this, tenure simply reflected the conditional nature of academic freedom. The whole Underhill controversy, which lasted decades, was possible because no one doubted that the president could recommend, and the board of governors could accept the recommendation, that Underhill be dismissed, whatever the formal nature of his appointment or the length of his service to the university. Tenure, in short, was more a matter of expectation than of right, and it involved responsibilities as to behavior as well as rights as to employment, both of which were ultimately subject to the judgment of the president and board.

The move to democratic management swept all this away, and substituted a concept of tenure that was equally binding on both parties to an employment contract. Tenure was still conceived of as conditional, but the determination of what conditions were appropriate was no longer the prerogative of presidents and

One of the primary reasons for the difficulty in protecting academic freedom is that the academic community has agreed upon no single definition of the term.

*– Susan M. Jasper, "Britain's Education Reform Act: A Lesson in Academic Freedom and Tenure", **Journal of College and University Law**, vol. 16, no. 3.*

boards, but a matter to be negotiated between senates and boards and confirmed in a written document. In this, the concept of academic freedom was greatly expanded. Falconer's notion of academic freedom limited to scholarship within the university was expanded to encompass a wide ranging freedom of speech, including the right to criticize the university and its officers and the right to speak openly on controversial matters of public policy, whether or not they fell within the purview of the individual's scholarly expertise. At the same time, the range of behavior considered acceptable on the part of someone enjoying the privileges associated with academic freedom grew ever broader. In short, tenure came to mean the right of employment until death, resignation, or retirement unless cause for dismissal could be established in a court of academic peers. Causes for dismissal were usually expressed only in the most general terms, including persistent failure to fulfil one's academic responsibilities, or gross misconduct. In this, academic freedom came to be defined more in the negative than the positive; it offered blanket protection, manifest in continued employment, for all utterances or behavior not proscribed by what were deemed by one's peers to constitute cause for dismissal. Yet one more thing changed as well. Consideration for an appointment with tenure came to be the right of virtually all full-time faculty members, usually after about five years and after successful reappointment to a second probationary term, known increasingly if inelegantly as a "tenure-track appointment". In this, appointments with tenure were detached from the limits of a university's assured funding. With very few exceptions, it became the right of all regular faculty members, unless denied in the first few years of employment, or subsequently revoked for cause.

To many, tenure represented the final victory not only of academic freedom, but also of its handmaiden, academic self-government, over autocratic administration and political interference.

All of this was accepted by university presidents and governing boards in a situation which seemed to offer few challenges to their ability to fulfil an open-ended commitment to employment, at least to retirement age, for the vast numbers of newly recruited faculty members. Government funding was increasing by leaps and bounds, as were the numbers of students. Appointments with tenure quickly became established practice and therefore deemed essential if individual universities were to succeed in the competitive race to attract new faculty members. If there was an element of shortsightedness in the behavior of boards and presidents, it was the reflection of a mood that captured many of them, their governments, the public generally and faculty members particularly. To many, including not a few of the new generation of presidents, vice-presidents, and deans who came to office during the heady days of expansion, tenure represented the final victory not only of academic freedom, but also of its handmaiden, academic self-government, over autocratic administration and political interference.

This victory has, in turn, generated a view that tenure itself has outlived its usefulness. The argument, taken up with a vengeance in Margaret Thatcher's Britain,

We have got to separate the issue of academic freedom and job security. Tenure should be returned to its original legitimate purpose, to protect academic freedom.

– John Crispo, professor of political economy, University of Toronto, speaking to the general meeting of the Association of Universities and Colleges of Canada, October 1995.

reflects a view that tenure has degenerated into mere job security and bears little relationship to the protection of academic freedom which, in any case, is as important for non-tenured as for tenured faculty members. Civil rights available to all, including freedom of speech and court-enforced redress for wrongful dismissal, arguably provide ample security of academic freedom within the university. This argument does not take us very far. The possibility that academic freedom may be secure apart from tenure does not constitute a convincing case for the elimination of tenure. Such a possibility might lead to the conclusion that tenure is redundant, but not that it is useless. Furthermore, the association of tenure with job security cannot be established by reference to tenure itself. Tenure does not preclude terminating a faculty member's employment, but rather precludes dismissal other than for cause. If, then, tenure has degenerated into mere job security, it must be because universities cannot, or will not, establish cause for dismissing those whose scholarly performance is inadequate. This, however, is a cause associated with weak management, not with the perversion of tenure *per se*. Weak management in unversities is a problem, because it has reduced the capacity of universities to demonstrate that the protection of academic freedom actually carries with it a reciprocal commitment by the scholar to seek and speak only the truth, as fully and as vigorously as scholarship can reveal. This problem, in turn, has been exacerbated by the retreat of many faculty members into the protection sought through unionization and collective bargaining.

If tenure has degenerated into mere job security, it must be because universities cannot, or will not, establish cause for dismissing those whose scholarly performance is inadequate.

Unionization and collective bargaining

In considering the consequences of unionization and collective bargaining for academic freedom, it is important to distinguish between the several forms in which the phenomenon has manifested itself. Indeed, some universities have escaped it altogether. Others have entered into formal bargaining relationships with their faculty associations, but outside the scope of provincial labour legislation and usually with bargaining limited to salaries and benefits and subject to some form of third-party arbitration. Then there is the block of universities in which faculty unions are certified under trade union legislation, in which the matters covered by collective agreements is exhaustive, and in which the ultimate dispute resolution mechanism is the strike or lock-out. It is the latter that is of particular concern here.

It cannot be said that unionization and collective bargaining are necessarily antithetical to academic freedom. Indeed, collective agreements invariably claim it as the right of all members of the bargaining unit. Moreover, the human face of bargaining and the day-to-day behavior of union leaders may be softer and gentler than the potential for confrontation that is inherent in the principles upon which unionization is founded. Be that as it may, full-blown unionization, collective bargaining, and the right to strike do stand in potential conflict with the principles upon which academic freedom has come to rest. It may be that this conflict can be resolved,

The shield of academic freedom often is raised by faculty members when they feel threatened. They use this shield to protect their rights to control the curriculum, the content of a course, and the pursuit of controversial research. Sometimes the threats are real; sometimes the shield is used to protect the faculty from accountability and the realities of fiscal constraints.

– Jonathan D. Fife, Foreword to ***Academic Freedom in American Higher Education: Rights, Responsibilities and Limitations****, 1993. ASHE-ERIC Higher Education Report No. 4, Washington, D.C.: The George Washington University, School of Education and Human Development.*

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but it has not happened yet. Let me illustrate with four examples.

First, unionization stands in potential opposition to academic self-government which is, in turn, one of the pillars underpinning academic freedom. Unionization exalts the pursuit of economic self-interest and subordinates the responsibilities inherent in academic self-government. Nowhere is this more apparent than in the retention of academic senates in unionized universities. Participation in senates rests on the willingness of faculty members to share in the responsibilities of governing the institution. Participation in unions rests on the determination to press faculty members' collective interests as employees on the governors of the institution as employers. Participation in both at the same time all too easily yields to the temptation to treat senates as a second line of defence in opposition to management and the governing board. Where senates play a role in budgetary planning or decision-making, this situation is ripe with the potential for outright conflicts of interest.

Second, the strike weapon, whether merely threatened or actually used, marks the willingness of faculty members to break the bonds of reciprocity inherent in academic freedom. To withdraw from teaching in order to secure existing or improved working conditions is not only to hold students to ransom, but is also to render scholarship, and the unremitting search for truth which gives it meaning, a matter to be negotiated, and a responsibility that is conditional. Perhaps one could justify the refusal to teach if academic freedom itself were at stake, but this has not been the experience in Canadian universities.

Unionization stands in potential opposition to academic self-government which is, in turn, one of the pillars underpinning academic freedom.

Third, unionization and collective bargaining have had the effect of weakening management authority within the university. In the self-governing university, management authority is very much shared with faculty, so much so that the Supreme Court of the United States ruled in 1980 that the academic responsibilities of faculty members are so manifestly managerial in character and extent that they cannot be certified as employees under the terms of the National Labour Relations Act. No Canadian board or court has accepted this argument, but that does not mitigate the problems created for the management of universities by faculty unionization. Most bargaining units in Canada include department heads or chairpersons, thereby excluding from the formal management team anyone who might actually be involved at the level where most of the university's work takes place. Where this takes on special significance is in the difficulties it creates in actually monitoring the scholarly performance of faculty members sufficient to certify that the protection of tenure continues to be justified or, where it is not, to prepare the case sufficient to establish cause for withdrawing it.

Fourth, unions have been largely successful in bargaining away salary structures based on performance. In most collective agreements, career increments or progress-through-rank (PTR) is now essentially automatic. The demise of merit pay or performance-based increments, removes a critical mechanism through which the link between academic freedom, embodied in tenure, and the individual's commitment to scholarship,

*It is significant that 19th century Germany universities recognized both the freedom of students (*Lernfreiheit*) and professors (*Lehrfreiheit*).* Lernfreiheit *meant the absence of "coercions" in learning situations and the right of students to explore freely within academic disciplines.* Lehrfreiheit *meant professorial freedom to research and present findings through publication or instruction.*

– Robert K. Poch 1993. ***Academic Freedom in American Higher Education: Rights, Responsibilities and Limitations****, 1993. ASHE-ERIC Higher Education Report No. 4, Washington, D.C.: The George Washington University, School of Education and Human Development.*

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expressed in research and teaching, is regularly reviewed and confirmed. This is not to say that without merit pay faculty members will all immediately turn to professional lives of indolence and sloth. It is to say, however, that the absence of regular performance reviews and performance-based reward systems makes it more difficult to confirm that the trust embodied in the principle of academic freedom is vested in responsible hands. In the face of increasing demands on universities to render themselves more accountable for what they do, this has to be a matter of concern.

Other constraints on academic freedom

To recapitulate, this paper has thus far focused on the modern conception of academic freedom and its protection in the contemporary Canadian university. This campaign for academic freedom has been successful, and some might ask why the matter would now be opened up for re-examination. I have tried to illustrate that re-examination is appropriate, primarily because the balance between rights and responsibilities inherent in the idea of academic freedom is under stress. There does appear to be a problem. The problem is in the management of universities and has to do with the ability of universities to secure, and perhaps more importantly to demonstrate that they have secured, reasonable assurances that academic freedom - as expressed primarily through institutional autonomy, academic self-government, and tenure - is balanced by the reciprocal commitment of faculty members to appropriately high standards of scholarship and productivity in teaching and research. This problem is particularly acute in the fully unionized university. A particular question that warrants re-consideration, therefore, is how the balance of rights and responsibilities that constitute the essence of academic freedom can be re-established through collective bargaining and expressed through collective agreements.

At issue here is competition between two ideas: the commitment to the unremitting search for truth through scholarship, and a social responsibility to ensure that the faculty of publicly-funded universities are broadly representative of the society they serve.

A second reason why re-consideration is appropriate, and this extends to all universities, unionized or not, has to do with reconciling academic freedom with demands for enhanced employment equity through affirmative action. Many universities have developed affirmative action policies and programs, particularly in seeking to alter the gender balance of their faculties. But the potential scope of employment equity extends far beyond gender alone. At issue here is competition between two ideas: the commitment to the unremitting search for truth through scholarship, and a social responsibility to ensure that the faculty of publicly-funded universities are broadly representative of the society they serve. It is not necessary to argue that these ideas are incompatible to conclude that they are in competition. It may also be possible to reconcile them, at least over an appropriate period of time. But we have not yet been able to agree on just what would constitute an appropriate reconciliation, and we have not yet been able to agree on what compromises of academic

"When academic freedom is extended without caveat from the content of discourse to the conduct of that discourse, it opens up the prospect of a range of "protected" behaviors which interfere mightily with the well-being of others, as well as their ability to carry out their own work. Simply put, there is no academic freedom to harass. There is no academic freedom to be disruptive. There is no academic freedom to scare others off of assigning work to one. There is no academic freedom to interfere with the academic freedom of others, and there is no academic freedom not to work."

– John Cowan, ***Lessons from the Fabrikant File: A report to the Board of Governors of Concordia University****, May 1994)*

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excellence may be acceptable in pursuit of employment equity. These questions cry out for thoughtful consideration.

Even more difficult are the challenges to academic freedom associated with "political correctness". In dealing with these challenges, it will be important to separate personal harassment from political correctness. Academic freedom has always carried with it norms of acceptable behavior, and while these have certainly been relaxed as compared with earlier times, there is no room to argue that the protection of academic freedom includes or implies license to harass. That having been said, however, there is a problem in the way universities seem wont to address problems arising from alleged harassment, and particularly in the balance struck between the rights of the accuser and the accused. Procedural justice is threatened when a presumption of guilt arises from the mere allegation of harassment. But this is a problem for universities as places of employment more than for academic freedom *per se*. Not so political correctness.

Political correctness strikes at the very roots of academic freedom, because its targets extend to what is studied and taught. The possibility that the truth might offend cannot justify proscribing lines of inquiry or the expression of their fruits. This is the foundation of the very idea of academic freedom. But that foundation is itself dependent on the condition that the inquiry and expression reflect the highest standards of scholarship. Universities must protect their faculty from attack based on the perception of prejudice on the part of the allegedly aggrieved party. They must also be vigilant in holding their faculty to high standards of scholarly work. But they must not succumb to procedures which, intentionally or otherwise, put the burden of proof on establishing innocence rather than guilt.

The possibility that the truth might offend cannot justify proscribing lines of inquiry or the expression of their fruits.

Arguably the most threatening situations arise when the tactics employed to attack what is perceived by an aggrieved party to be politically unacceptable constitute harassment against the faculty member. This is so threatening to academic freedom precisely because it is so difficult to counter. It can be intensely personal. It can come from students, it can come from colleagues, and it can even come as the result of statements, presentations, artistic displays, or other scholarly activities undertaken outside of the university. To what extent is the university responsible for protecting its faculty members from this sort of abuse? What procedures are appropriate in establishing grounds for action, and what action is appropriate? Certainly traditional safeguards such as tenure and its procedures for establishing cause for dismissal seem irrelevant to the protection of academic freedom from politically motivated but personally directed harassment.

The principle of academic freedom has not changed. It still holds to the idea that it is good to provide a place wherein scholarship, the single-minded and relentless pursuit of truth, can flourish without regard for fad, fashion, or political interests. And, as always, it is the responsibility of those who claim that freedom to earn it, and of those who administer the affairs of universities to protect it.

But the challenges to the principle of academic freedom are as great as they

"Challenges to academic freedom will not fade away. Colleges and universities must stand ready to act with speed and certainty when the intellectual liberty of faculty or students are challenged by individuals or groups who would restrict it unnecessarily from within or outside the campus."

– Robert K. Poch 1993. ***Academic Freedom in American Higher Education: Rights, Responsibilities and Limitations****, 1993. ASHE-ERIC Higher Education Report No. 4, Washington, D.C.: The George Washington University, School of Education and Human Development.*

have ever been. What has changed are the sources of the challenges, and the tactics employed. The established means of securing academic freedom do not always seem adequate or appropriate in dealing with these changed circumstances. New means may have to be considered, and old ones tempered or reinvigorated. This paper has not provided responses to these challenges, and that was not its purpose. It was designed to put academic freedom within its historical context, and to raise for discussion some of the changes and challenges that attend academic freedom in the contemporary Canadian university. It is essential that academic freedom be subjected to periodic re-examination, and the AUCC is to be commended for taking on such a task. It will not be an easy one. In preparing a revised statement on academic freedom, account will have to be taken of unionization, and the changed conception of academic self-government which it invokes. The question of management within the institution also requires scrutiny, particularly if the universities' benefactors, both public and private, are to be reassured that academic freedom is in secure hands, and that those under its protection are also accountable for the exercise of their freedom. The reconciliation of academic freedom and employment equity requires the most careful consideration, as to procedural safeguards against unjust or unsubstantiated charges of harassment. And finally, we must find more effective ways of protecting the scholar from persecution on political grounds by disgruntled factions.

Selected readings

Metzger Walter P., "Professional and Legal Limits to Academic Freedom". *Journal of College and University Law, vol. 20, no. 1, 1993, pp. 1-14.*

Poch, Robert K. 1993. *Academic Freedom in American Higher Education: Rights, Responsibilities and Limitations,* 1993. ASHE-ERIC Higher Education Report No. 4, Washington, D.C.: The George Washington University, School of Education and Human Development.

Russell, Conrad. *Academic Freedom.* London: Routledge, 1993.

Shils, Edward A. *The Academic Ethic.* Chicago: University of Chicago Press, 1984.

Shils, Edward A. "Do We Still Need Academic Freedom?" *The American Scholar* vol. LXII (Spring 1993) pp. 187-209.

The AUCC Research File is a series of short papers which explore current issues in higher education. This is the third in the series. The first, ***Quality education: does class size matter?*** was published April 1995. The second, ***A primer on performance indicators***, was published June 1995.

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This paper was commissioned by the Association of Universities and Colleges of Canada to assist its members in discussing the question of academic freedom and its centrality to contemporary universities. The paper has been prepared with this in mind, and seeks to be helpful in outlining the background to our current understanding of academic freedom, and in defining the issues that impinge on the institutional manifestations of this ancient idea. The opinions expressed, however, are those of the author alone, and not necessarily those of the Association or any of its members.

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